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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/621,670	07/24/2000	Mark Ashby	032005-068	6902

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Robert E. Kerbs
Burns, Doane, Swecker & Mathis L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

EXAMINER

IZAGUIRRE, ISMAEL

ART UNIT PAPER NUMBER

3765

DATE MAILED: 10/07/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/621,670

Applicant(s)

ASHBY, MARK

Examiner

Ismael Izaguirre

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

--- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.

- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2001.
- 2a) ☐ This action is **FINAL**.
- 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-24 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 13, 25-32, 37-39, 42 and 44 is/are rejected.
- 7) ☒ Claim(s) 4, 6-12, 33-36, 40, 41 and 43 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some * c) ☐ None of:
 - 1. ☐ Certified copies of the priority documents have been received.
 - 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

CLAIMS

Summary

Claims 1,14,25, 38 and 44 are the independent claims under consideration in this Office Action.

Claims 2-13,15-24,26-37 and 39-43 are the dependent claims under consideration in this Office Action.

Claim Rejections - 35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371⁶ of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-3,5,13,25-32,37-39,42 and 44 are rejected under 35 U.S.C. § 102(b) as being anticipated by Cragg et al. (6,162,192).

Cragg et al. teach an apparatus for inhibiting blood loss and marking the distance between the surface of a patient and a blood vessel. Cragg et al. teach the apparatus including a vent tube

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12 having a cannula and a guide wire 26 within the cannula for penetrating through the patient and a blood vessel 102. When the apparatus is placed at the border or boundary of the vessel a marker 52 is then slid into position so as to mark the depth of the apparatus from the mark to the blood vessel. A pledget 40 is placed in the cannula and is pushed along by a pledget pusher 42 into the vessel wall. Accordingly, the pledget is positioned for preventing blood loss at the puncture site.

ALLOWABLE SUBJECT MATTER

Claims 14-24 are allowable over the prior art of record.

Claims 4,6-12,33-36,40 and 43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

PERTINENT CITATIONS

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cragg et al. '733 illustrates a pledget positioned with a depth marker.

INQUIRIES

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist at (703) 308-0861.

Any facsimile communication filed should be done so using group facsimile numbers (703) 305-3463 or (703) 305-3464.

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Any inquiry concerning this communication or earlier communications directed to the examiner should be directed to Mr. Ismael Izaguirre at (703) 308-0892 located in CP2-4B18, Monday through Friday 9:30am to 6:00pm.

A handwritten signature in black ink, appearing to read 'Ismael Izaguirre', with a long horizontal stroke extending to the right.

Ismael Izaguirre
Primary Examiner
Group Art Unit 3765

II
September 30, 2002